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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|--------------------|
| 10/605,798 | 10/28/2003 | B. Eugene HODGES | JTEC12 | 2797 |
| 7590 | 05/02/2006 | | EXAMINER | |
| Bullwinkel Partners, Ltd. Suite 1300 19 S. LaSalle Street Chicago, IL 60603 | | | | PRICE, CRAIG JAMES |
| | | ART UNIT | PAPER NUMBER | 3753 |

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/605,798 | HODGES, B. EUGENE |
| | Examiner Craig Price | Art Unit 3753 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10/28/03 and 4/10/06.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/23/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II, Figures 4-10 reading on claims 1-7 in the reply filed on 10 April 2006 is acknowledged.

Claims 8-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10, April 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (6,241,849) in view of Hutto (4,896,381).

Gray discloses a mounting assembly for a plumbing control fitting comprising, a mounting sleeve (24) having a cylindrical portion and a plurality of locking legs (28) extending forward from the cylindrical portion for engagement with the shower stall wall, each locking leg having means (36) for holding a locking plate (20) against a backside

of the shower stall wall and terminating in a radially outwardly extending flange (30), and a substantially planar locking plate (20) having sections that abut the backside of the shower stall wall when the locking plate is held against (Figure 4 shows a wall 12, as shown if the wall were thicker, the wall would abut against portions 40 of the plate) the backside of the shower stall wall by the locking legs, as shown in Figures 2 and 4, and the means (36) for holding the locking plate comprises inclined teeth disposed on the inside of each locking leg (the teeth are considered to be on the inside of the leg when considering the flange 30 as a foot of the leg), and the legs are splayed (Col. 3, Lns. 6-10, the legs deflect radially outward).

Gray has disclosed all of the features of the claimed invention except for the cylindrical portion having a plurality of cutout sections positioned to capture pipes connected to the mixing valve which are also a plurality of rearward extending hook portions positioned to capture pipes connected to the mixing valve, the hook portions are spaced around the perimeter of the annular ring, and the mounting sleeve further comprises a rearward extending rib disposed on the annular ring such that the pipes are captured between the hook portions and the rib.

Hutto discloses a mounting bracket for a mixing valve which discloses the cylindrical portion having a plurality of cutout sections (54) positioned to capture pipes connected to the mixing valve which are also a plurality of rearward extending hook portions (54) positioned to capture pipes connected to the mixing valve, the hook portions are spaced around the perimeter of the annular ring (as shown in Figure 3), and the mounting sleeve further comprises a rearward extending rib (30) disposed on

the annular ring such that the pipes are captured between the hook portions and the rib (as shown in Figure 1).

In view of the Hutto patent, it would have been obvious to one of ordinary skill in the art at the time of invention, to employ Hutto's cylindrical portion having a plurality of cutout sections positioned to capture pipes connected to the mixing valve which are also a plurality of rearward extending hook portions positioned to capture pipes connected to the mixing valve, the hook portions are spaced around the perimeter of the annular ring, and the mounting sleeve further comprises a rearward extending rib disposed on the annular ring such that the pipes are captured between the hook portions and the rib onto the mounting assembly of Gray in order to allow for greater adaptability in mounting a tub and shower faucet valve in a variety of installations and installation procedures (Col. 2, Lns. 64-67).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. King, Jr. (3,556,130) and Richardson (2002/0108328) disclose devices.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Price whose telephone number is (571) 272-2712. The examiner can normally be reached on 7AM - 5:30PM M-R.

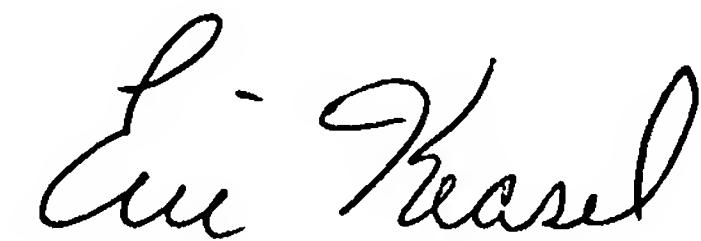
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CP



27 April 2006



ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700